IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.989 OF 2006

Narendra Dattatraya Wagh ...Appellant
vs.
Vidya Narendra Wagh ...Respondent

Mr.S.A.Dhamale for the Appellant

CORAM: A.S.OKA,J.
DATE : JULY 5, 2007.

P.C.:

1. Heard Advocate for the Appellant. The Appellant is the husband and the Respondent is the wife. The Trial court passed a decree of dissolution of marriage in favour of the Respondent on the ground of cruelty. The decree has been confirmed in Appeal.

2. The learned Advocate for the Appellant submitted that the cruelty was not at all established by the Respondent. She submitted that now the Respondent-wife cannot make any allegation addiction of alcohol as the Respondent wife herself had taken the Appellant to de-addiction centre. The learned Advocate for the Appellant submitted that the incidents alleged against the Appellant are insignificant and there could not have been a decree on the ground of cruelty.

3. I have considered the submissions. The Respondent entered into the witness box and stated about the various acts of cruelty on the part of the Appellant. She has described the manner in which the Appellant harassed his son. A 14 years old son of the Appellant was also examined as a witness. He

has also described the manner in which the Appellant has treated him. The evidence of a Doctor has been led which establishes that the Appellant was a chronic alcoholic. It is true that the Respondent might have taken the Appellant to de-addiction centre. However, that is no ground to disbelieve the allegation of cruelty. The Courts below have accepted the evidence of the Respondent, her minor son and other witnesses as regards cruelty and violent behaviour of the Appellant. It is not possible to interfere with the findings of fact recorded in the impugned Judgments and decrees. No substantial question of law arises. The findings recorded by the courts below are based on appreciation of oral evidence on record.

4. The Appellate Court has even rejected the prayer made by the appellant for grant of a limited access to meet the minor children. In paragraph 29, the Appellate Court has observed that at the stage at which the Appeal was considered, the request cannot be allowed. The orders which are passed by the courts below as regards visitation rights are never final in the sense in case of change in circumstances, the parties can always apply for appropriate relief. It is obvious that the observations made in paragraph 29 of the Judgment of the Appellate Court will not come in the way of the Appellant seeking an appropriate relief at appropriate stage.

5. Subject to what is stated above, decree of divorce is confirmed. No order as to costs.

JUDGE